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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-470**

13 **RAPHAEL AARON VASQUEZ**
14 **26 Cercado Court**
Napa, CA 94558
Registered Nurse License No. RN 580185

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about April 25, 2001, the Board of Registered Nursing issued Registered Nurse
23 License Number RN 580185 to Raphael Aaron Vasquez (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on April 30, 2011, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board of Registered Nursing (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 STATUTORY PROVISIONS

6 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
7 that the Board may discipline any licensee, including a licensee holding a temporary or an
8 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
9 Nursing Practice Act.

10 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
11 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
12 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the
13 Code, the Board may renew an expired license at any time within eight years after the expiration.

14 6. Section 2761 of the Code provides, in pertinent part, that:

15 "The board may take disciplinary action against a certified or licensed nurse or deny an
16 application for a certificate or license for any of the following:

17 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

18 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
19 functions.

20 "..."

21 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 8. California Code of Regulations, title 16, section 1443, states:

26 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
27 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
28 exercised by a competent registered nurse as described in Section 1443.5."

1 9. California Code of Regulations, title 16, section 1443.5 states, in pertinent part:

2 "A registered nurse shall be considered to be competent when he/she consistently
3 demonstrates the ability to transfer scientific knowledge from social, biological and physical
4 sciences in applying the nursing process, as follows:

5 ...

6 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
7 subordinates and on the preparation and capability needed in the tasks to be delegated, and
8 effectively supervises nursing care being given by subordinates.

9 ...

10 CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct- Incompetence)

12 10. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
13 he committed acts of unprofessional conduct and was incompetent while on duty as the shift lead
14 supervisor and as a registered nurse at Napa State Hospital on or about June 12, 2006. The
15 circumstances are as follows:

16 11. On or about June 12, 2006, Respondent was employed at Napa State Hospital as the
17 shift lead supervisor and as a registered nurse on the 11:00 p.m. to 7:00 a.m. shift on Unit T-4.
18 While on duty, he failed to adequately supervise staff and to enforce hospital policy requiring that
19 clients be adequately monitored at all times.

20 At approximately 4:00 a.m. Respondent was in the staff break room together with all other
21 staff on duty at the time. No assigned staff was on the floor with clients at that time. The door to
22 the break room was closed and locked and could only be opened from the outside with a key.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 580185, issued to Raphael Aaron Vasquez.

2. Ordering Raphael Aaron Vasquez to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: _____

3/29/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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